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JAN 09 2003

**RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

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United States Attorney

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12
13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 SUKHDEEP BAWA and
17 JASNA BAWA,

18 Defendants.

CRIMINAL NO. 02-0100-MJJ

PLEA AGREEMENT

19
20 I, Sukhdeep Bawa, and the United States Attorney's Office for the Northern District of
21 California (hereafter "the government") enter into this written plea agreement (the "Agreement")
22 pursuant to Rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure:

23 The Defendant's Promises

24 1. I agree to plead guilty to Count 36 of the captioned indictment charging me with
25 willfully attempting to evade and defeat income taxes due and owing to the United States of
26 America for the calendar year 1995, in violation of 26 U.S.C. § 7201. I agree that the offense in
27 Count 36 to which I am pleading guilty involves a loss to the Internal Revenue Service of \$7,922.
28 I agree that the elements of the offense and the maximum penalties are as follows: (1) the

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1 defendant has a tax due and owing for the calendar year 1995; (2) the defendant attempted to
2 evade or defeat the income taxes due for calendar year 1995; and (3) the defendant's attempt to
3 evade was willful.

- | | | | |
|---|----|---------------------------------|------------|
| 4 | a. | Maximum prison sentence | 5 years |
| 5 | b. | Maximum fine | \$ 250,000 |
| 6 | c. | Maximum supervised release term | 3 years |
| 7 | d. | Mandatory special assessment | \$ 100 |
| 8 | e. | Restitution | \$ 131,610 |

9 2. I agree that I am guilty of the offense to which I will plead guilty, and I agree that
10 the following facts are true:

11 I graduated from high school in India in 1982, obtained a Bachelors of Commerce
12 Degree in Business from Delhi University and a Master of Business Administration from Loyola
13 Marymont University in 1990. Before forming Jasna Corporation in 1991, I worked as an
14 accountant and later as an office assistant.

15 My wife, Jasna Bawa, and I operate a family-owned wholesale deli business in
16 Napa, California. The primary function of the business, Jasna Corporation doing business as
17 Deli Delicious, is to produce and sell freshly-made sandwiches to convenience stores and other
18 similar types of establishments. The sandwiches are assembled on-site at the Deli Delicious
19 business location, then delivered by Deli Delicious employees to approximately 200 customers in
20 the Bay Area. The business is predominately a cash operation.

21 During the years 1995 through 1998, I skimmed cash receipts from the business
22 and routinely paid employees in cash under the table. The skimming led to the filing of false
23 individual income tax returns in 1995, 1996 and 1997 and false corporate income tax returns for
24 Jasna Corporation for fiscal years ending October 31, 1996, and October 31, 1997. The cash
25 wages paid to employees were not reported on Forms 941, Employer's Quarterly Federal Tax
26 Returns filed for Jasna Corporation for the calendar quarters ending March 31, 1995 through
27 December 31, 1998, making those returns false as well.

28 ///

1 I signed the following returns: (1) the Employer's Quarterly Tax Returns for Jasna
2 Corporation for the quarters ending March 31, 1995 through December 31, 1998; (2) the U.S.
3 Corporation Income Tax Return for Jasna Corporation for the fiscal year ending October 31,
4 1996; and (3) the 1995, 1996 and 1997 U.S. Individual Income Tax Returns for Sukhdeep Bawa
5 and Jasna Bawa. My wife, Jasna signed the U.S. Corporate Income Tax Return for Jasna
6 Corporation for the fiscal year ending October 31, 1997. I was the person who prepared all of the
7 employment tax returns. All of the returns that I signed contained the standard jurat; to wit, that
8 the return was being signed under penalties of perjury.

9 Neither I nor my wife prepared the corporate income tax returns and the
10 individual income tax returns; they were prepared by a tax return preparers. I provided all of the
11 information for the preparation of these tax returns to the tax return preparers. I provided false
12 profit and loss statements for Jasna Corporation to the corporate tax return preparer. The profit
13 and loss statements were generated by my wife from information that I supplied to her. I
14 provided my wife with sales figures based upon deposits to the business checking account. I
15 omitted to give her information about receipts from cash sales which were not deposited in the
16 corporate checking account. Two sets of corporate records were kept: one which reflected the
17 true amount of corporate sales and another which only reflected those sales which were deposited
18 into the corporate bank account. I also provided the information to the tax return preparers who
19 prepared my individual income tax returns for 1995, 1996 and 1997. I understated the income
20 that my wife and I received from Jasna Corporation in each of those years and I did not provide
21 accurate information about rental income received from three rental properties that my wife and I
22 owned. In sum, I failed to supply the tax return preparers with correct and complete information
23 necessary to prepare the individual and corporate income tax returns accurately.

24 I filed false individual income tax returns which omitted rental income and
25 income skimmed from Deli Delicious resulting in an understatement of tax in the amount of
26 \$12,465 over the three years at issue. To conceal the unreported gross receipts, I maintained a
27 bank account at Chase Manhattan Bank under my father's name to disguise that many deposits to
28 that account represented the money I skimmed from Deli Delicious. I purchased cashier's checks

1 with cash from unreported gross receipts and deposited them into the Chase Manhattan Bank
2 account. I then used the Chase Manhattan Bank account to pay personal expenses.

3 I failed to report in excess of \$380,000 in gross business receipts on the corporate
4 income tax returns for the fiscal years ending October 31, 1996, and October 31, 1997, in excess
5 of \$485,000 in wages paid to employees in cash from 1995 through 1998 on the employment tax
6 returns; and in excess of \$80,000 in taxable income on my 1995 through 1997 individual income
7 tax returns. I knew the returns were false at the time they were prepared, and I signed them and
8 filed them nonetheless.

9 3. I agree to give up all rights that I would have if I chose to proceed to trial,
10 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
11 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
12 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
13 to pursue any affirmative defenses and present evidence.

14 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
15 the Court. I also agree to waive any right I may have to appeal my sentence.

16 5. I agree not to file any collateral attack on my conviction or sentence, including a
17 petition under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim
18 that my constitutional right to the effective assistance of counsel was violated

19 6. I agree not to ask the Court to withdraw my guilty plea at any time after it is
20 entered.

21 7. I agree that the Sentencing Guidelines should be calculated under U.S.S.G. §§
22 2T1.1 and 2T4.1, and that the total tax loss for sentencing purposes is \$ 131,610. I further agree
23 that my base offense level under U.S.S.G. § 2T4.1 is 15, that I am entitled to an adjustment to my
24 base offense level for acceptance of responsibility under U.S.S.G. § 3E1.1 as determined by the
25 Court, and that I will not ask for any other adjustments to or reductions of the offense level. I
26 agree that, regardless of any other provision in this agreement, the government may and will
27 provide to the Court and the Probation Office all information relevant to the charged offenses or
28 the sentencing decision. I also agree that the Court is not bound by the Sentencing Guidelines

1 calculations above, the Court may conclude that a higher guideline range applies to me, and, if it
2 does, I will not be entitled, nor will I ask, to withdraw my guilty plea.

3 ⁸ ~~6~~ ^{SP} I agree that the court may order and I will pay restitution in the amount of
4 \$ 131,160, which represents the total tax loss for sentencing purposes. I agree that I will make a
5 good faith effort to pay any fine, forfeiture or restitution I am ordered to pay. Before or after
6 sentencing, I will, upon request of the Court, the government, or the U.S. Probation Office,
7 provide accurate and complete financial information, submit sworn statements and give
8 depositions under oath concerning my assets and my ability to pay, surrender assets I obtained as
9 a result of my crimes, and release funds and property under my control in order to pay any fine,
10 forfeiture, or restitution. I agree to pay the special assessment at the time of sentencing.

11 I agree to comply and cooperate with the Internal Revenue Service in a good-faith effort
12 to determine the accurate amount of, and pay any, outstanding tax liabilities, including any
13 penalties and interest. Though I have agreed to an amount of restitution as a part of the agreed-
14 upon disposition of this case, I agree that this agreement with respect to restitution does not bar
15 the Internal Revenue Service from making a civil determination with respect to additional taxes,
16 interest and penalties for which I may be liable, nor will it bar me from civilly contesting any
17 such liabilities as determined by the Internal Revenue Service.

18 9. I agree not to commit or attempt to commit any crimes before sentence is imposed
19 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
20 release (if any); intentionally provide false information to the Court, the Probation Office,
21 Pretrial Services, or the government; or fail to comply with any of the other promises I have
22 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
23 Agreement, then the government will be released from all of its promises below, but I will not be
24 released from my guilty plea.

25 10. I agree that this Agreement contains all of the promises and agreements between
26 the government and me, and I will not claim otherwise in the future.

27 11. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
28 District of California only, and does not bind any other federal, state, or local agency.

1 The Government's Promises

2 12. The government agrees to move to dismiss all charges pending against defendant
3 Jasna Bawa.

4 13. The government agrees to move to dismiss any open charges pending against the
5 defendant Sukhdeep Bawa in the captioned indictment at the time of sentencing.

6 14. The government agrees not to file or seek any additional charges against either
7 defendant Sukhdeep Bawa or defendant Jasna Bawa that could be filed as a result of the
8 investigation that led to the captioned indictment.

9 15. The government agrees to recommend the Guidelines calculations set out above.

10 16. The government agrees that the offense in Count 36 to which the defendant is
11 pleading guilty involves a loss to the victim, the Internal Revenue Service, of \$ 7,922.

12 The Defendant's Affirmations

13 17. I confirm that I have had adequate time to discuss this case, the evidence, and this
14 Agreement with my attorney, and that he has provided me with all the legal advice that I
15 requested.

16 18. I confirm that while I considered signing this Agreement, and at the time I signed
17 it, I was not under the influence of any alcohol, drug, or medicine.

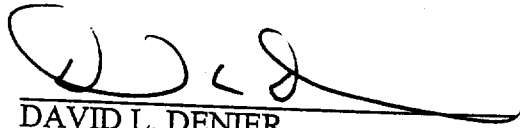
18 19. I confirm that my decision to enter a guilty plea is made knowing the charges that
19 have been brought against me, any possible defenses, and the benefits and possible detriments of
20 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
21 one coerced or threatened me to enter into this agreement.

22
23
24 Dated: 1-9-03

Sukhdeep Bawa
SUKHDEEP BAWA
Defendant


KEVIN V. RYAN
United States Attorney

Dated: 1/9/03


DAVID L. DENIER
Assistant United States Attorney

I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights he is giving up by pleading guilty, and, based on the information now known to me, his decision to plead guilty is knowing and voluntary.

Dated: 1-9-03


ARTHUR PIRELLI
Attorney for Defendant